

Notice of Allowability

Application No.

10/088,936

Examiner

Charles A. Marmor, II

Applicant(s)

CASTELLACCI, PIETRO

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 27 May 2004 and the telephonic interview of 09 July 2004.
2. ☒ The allowed claim(s) is/are 1-8 and 10-12 (renumbered claims 1-11).
3. ☒ The drawings filed on 21 March 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 07092004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


Charles A. Marmor, II
Primary Examiner
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EXAMINER'S AMENDMENT

1. This Examiner's Amendment is responsive to the Amendment filed May 27, 2004. The Examiner acknowledges the Substitute Specification, the cancellation of claim 9, and the amendments to claims 1-8 and 10-12. Claims 1-11 are pending.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John James McGlew on July 7, 2004.

3. The application has been amended as follows:

IN THE SUBSTITUTE SPECIFICATION:

- a. On page 3, line 17, "step-Pike" has been changed to --step-like--.
- b. On page 4, line 17, --extension-- has been inserted following "tab".
- c. On page 6, line 7, "cannula 5 1" has been changed to --cannula 1--.
- d. On page 6, line 13, "16" has been changed to --1B--.
- e. On page 6, line 17, "arid" has been changed to --and--.
- f. On page 7, line 4, "infernal" has been changed to --internal--.
- g. On page 7, line 21, "i B" has been changed to --1B--.

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- h. On page 8, line 17, "113" has been changed to --1B--.
- i. On page 9, line 2, "5D" has been changed to --105D--.
- j. On page 11, line 10, "10" has been deleted.
- k. On page 12, line 7, "the said tubular" has been changed to --the tubular--.

IN THE CLAIMS:

- a. In claim 1, line 8, "in that" has been changed to --wherein--.
- b. In claim 2, line 2, "tab-like" has been deleted.
- c. In claim 7, line 4, "it" has been changed to --the specimen--.
- d. In claim 8, line 4, "in that" has been changed to --wherein--.
- e. In claim 12, line 4, "it" has been changed to --the specimen--.

4. The following is an examiner's statement of reasons for allowance:

No prior art of record teach or fairly suggest a biopsy needle, as claimed by Applicant, including an outer cannula having a distal portion with a thickness greater than the thickness of a portion immediately proximal thereto such that the two portions together form a step in an interior wall of the cannula along a plane that is inclined with respect to the longitudinal axis of the cannula; a closing stem within the lumen of the outer cannula; and a withholding element provided with a distal tab-like extension, where the withholding element is disposed between the outer cannula and the closing stem so that the withholding element slides axially therebetween.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Marmor, II whose telephone number is (703) 305-3521. The examiner can normally be reached on M-TH (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mary Beth Jones can be reached on (703) 308-3400. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles A. Marmor, II
Primary Examiner
Art Unit 3736

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July 7, 2004